

Pension Benefit Guaranty Corporation

§ 4022.81

Under paragraph (c), the participant's estimated priority category 3 benefit is \$500 ($\$1,000 \times \$500/\$1,000$) per month.

Under paragraph (d), the participant's estimated priority category 4 benefit is the estimated guaranteed benefit computed under § 4022.62(c) (i.e., as if the participant were not a substantial owner) multiplied by the priority category 4 funding ratio. Since the plan has priority category 3 benefits, the ratio is determined under paragraph (d)(2)(i). The numerator of the ratio is plan assets minus the present value of benefits in pay status. The denominator of the ratio is the present value of all vested benefits that are not in pay status. The participant's estimated guaranteed benefit under § 4022.62(c) is \$1,000 per month times 0.90 (the factor from column (b) of Table I in § 4022.62(c)(2)), or \$900 per month. Multiplying \$900 by the category 4 funding ratio of $\frac{2}{3}$ ($\$2$ million— $\$1.5$ million)/ $\$0.75$ million) produces an estimated category 4 benefit of \$600 per month.

Because the estimated category 4 benefit so computed is greater than the estimated category 3 benefit so computed, the estimated category 4 benefit is the estimated title IV benefit. Because the estimated category 4 benefit so computed is greater than the estimated guaranteed benefit of \$166.67 per month, in accordance with § 4022.61(d), the benefit payable to the participant is the estimated category 4 benefit of \$600 per month.

[61 FR 34028, July 1, 1996; 61 FR 36626, July 12, 1996]

Subpart E—PBGC Recoupment and Reimbursement of Benefit Overpayments and Underpayments

§ 4022.81 General rules.

(a) *Recoupment of benefit overpayments.* If at any time the PBGC determines that net benefits paid with respect to any participant in a PBGC-trusted plan exceed the total amount to which the participant (and any beneficiary) is entitled up to that time under title IV of ERISA, and the participant (or beneficiary) is, as of the termination date, entitled to receive future benefit payments, the PBGC will recoup the net overpayment in accordance with paragraph (c) of this section and § 4022.82. Notwithstanding the previous sentence, the PBGC may, in its discretion, recover overpayments by methods other than recouping in accordance with the rules in this subpart. The PBGC will not normally do so un-

less net benefits paid after the termination date exceed those to which a participant (and any beneficiary) is entitled under the terms of the plan before any reductions under subpart D.

(b) *Reimbursement of benefit underpayments.* If at any time the PBGC determines that net benefits paid with respect to a participant in a PBGC-trusted plan are less than the amount to which the participant (and any beneficiary) is entitled up to that time under title IV of ERISA, the PBGC will reimburse the participant or beneficiary for the net underpayment in accordance with paragraph (c) of this section and § 4022.83.

(c) *Amount to be recouped or reimbursed.* In order to determine the amount to be recouped from, or reimbursed to, a participant (or beneficiary), the PBGC will calculate a monthly account balance for each month ending after the termination date. The PBGC will start with a balance of zero as of the end of the calendar month ending immediately prior to the termination date and determine the account balance as of the end of each month thereafter as follows:

(1) *Debit for overpayments.* The PBGC will subtract from the account balance the amount of overpayments made in that month. Only overpayments made on or after the latest of the proposed termination date, the termination date, or, if no notice of intent to terminate was issued, the date on which proceedings to terminate the plan are instituted pursuant to section 4042 of ERISA will be included.

(2) *Credit for underpayments.* The PBGC will add to the account balance the amount of underpayments made in that month. Only underpayments made on or after the termination date will be included.

(3) *Credit for interest on net underpayments.* If at the end of a month there is a positive account balance (a net underpayment), the PBGC will add to the account balance interest thereon for that month using—

(i) For months after May 1998, the applicable federal mid-term rate (as determined by the Secretary of the Treasury pursuant to section 1274(d)(1)(C)(ii) of the Code) for that month (or, where the rate for a month

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is not available at the time the PBGC calculates the amount to be recouped or reimbursed, the most recent month for which the rate is available) based on monthly compounding; and

(ii) For May 1998 and earlier months, the immediate annuity rate established for lump sum valuations as set forth in Table II of Appendix B of part 4044 of this chapter.

(4) *No interest on net overpayments.* If at the end of a month, there is a negative account balance (a net overpayment), there will be no interest adjustment for that month.

[63 FR 29354, May 29, 1998]

§ 4022.82 Method of recoupment.

(a) *Future benefit reduction.* The PBGC will recoup net overpayments of benefits by reducing the amount of each future benefit payment to which the participant or any beneficiary is entitled by the fraction determined under paragraphs (a)(1) and (a)(2) of this section, except that benefit reduction will cease when the amount (without interest) of the net overpayment is recouped. Notwithstanding the preceding sentence, the PBGC may accept repayment ahead of the recoupment schedule.

(1) *Computation.* The PBGC will determine the fractional multiplier by dividing the amount of the net overpayment by the present value of the benefit payable with respect to the participant under title IV of ERISA. The PBGC will determine the present value of the benefit to which a participant or beneficiary is entitled under title IV of ERISA as of the termination date, using the PBGC interest rates and factors in effect on that date. The PBGC may, however, utilize a different date of determination if warranted by the facts and circumstances of a particular case.

(2) *Limitation on benefit reduction.* Except as provided in paragraph (a)(1) of this section, the PBGC will reduce benefits with respect to a participant or beneficiary by no more than the greater of—

- (i) Ten percent per month; or
- (ii) The amount of benefit per month in excess of the maximum guaranteeable benefit payable under section 4022(b)(3)(B) of ERISA, deter-

mined without adjustment for age and benefit form.

(3) *PBGC notice to participant or beneficiary.* Before effecting a benefit reduction pursuant to this paragraph, the PBGC will notify the participant or beneficiary in writing of the amount of the net overpayment and of the amount of the reduced benefit computed under this section.

(4) *Waiver of de minimis amounts.* The PBGC may, in its discretion, decide not to recoup net overpayments that it determines to be de minimis.

(5) *Final installment.* The PBGC will cease recoupment one month early if the amount remaining to be recouped in the final month is less than the amount of the monthly reduction.

(b) *Full repayment through recoupment.* Recoupment under this section constitutes full repayment of the net overpayment.

[63 FR 29354, May 29, 1998]

§ 4022.83 PBGC reimbursement of benefit underpayments.

When the PBGC determines that there has been a net benefit underpayment made with respect to a participant, it shall pay the participant or beneficiary the amount of the net underpayment, determined in accordance with § 4022.81(c), in a single payment.

[61 FR 34028, July 1, 1996, as amended at 63 FR 29355, May 29, 1998]

APPENDIX A TO PART 4022—LUMP SUM MORTALITY RATES

Age x	q_x
12	0.000000
13	0.000000
14	0.000000
15	0.000000
16	0.001437
17	0.001414
18	0.001385
19	0.001351
20	0.001311
21	0.001267
22	0.001219
23	0.001167
24	0.001149
25	0.001129
26	0.001107
27	0.001083
28	0.001058
29	0.001083
30	0.001111
31	0.001141
32	0.001173
33	0.001208
34	0.001297